IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1121 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUO MOTU FOR PC THAKKAR AGRICULTURAL ASSISTANT (RETD)

Versus

STATE OF GUJARAT

Appearance:

SUO MOTU for Petitioner

MR SAMIR DAVE, AGP, for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 8/03/2001

ORAL JUDGEMENT

The affidavit-in-reply to the Special Civil Application has been filed by the State of Gujarat. The letter of the retired officer was treated as Special Civil Aplication. This tendency of the officer of the

State of Gujarat to deal with and accept the claims of the retired officers only after they approached this Court and on this Court issuing the notice is deprecated. It unnecessarily increases the burden of the Court. The Court is already overburdened with the pendency of cases. It is the duty of the State Government to see that unavoidable litigation may not come to this Court. If we go by the reply of the State Government, it is clearly a case which is avoidable but, because of the reckless, negligent, careless and umindful of their duties to the public of the officers, this petition is filed in this Court.

2 Both the claims of the petiitoner i.e. higher pay scale and efficiency bar are accepted by the State Government and accordingly amount has already been paid to the petitioner. It is a case where this retired officer has been deprived of this amount for all these years without there being any fault on his part. This is a financial loss to him. Had this retired officer invested this amount in a bank he would have earned interest thereon.

3 In case reported in 2000 AIR SCW 2678 the Supreme Court has held that where amount of retirement benefits has been withheld by the employer without there being any fault on the part of the employee, the employee is entitled for the interest on the delayed payment of retiral benefits. In that case the interest was awarded at the rate of 18% per annum on the delayed payment of retiral benefits. The learned counsel for the respondents contended that as per the Government Circulars of the Finance Department a maximum of 12% of interest is payable. This is not binding on the Court and what is binding on the Court is Supreme Court decision.

4 In the result, this petition succeeds and the same is allowed. The respondents are directed to pay the interest at the rate of 18% to the petitioner on the delayed payment of arrears of higher pay scale and arrears as a consequence of permitting the petitioner to cross efficiency bar from the date of retirement till the date on which the amount has been paid. This calculation of the interest has to be made within one month from today and the payment shall be made within seven days thereafter. The compliance report of this order is to be submitted to this Court. Rule is made absolute accordingly. A copy of this order is to be sent to the concerned officer forthwith.

5 Before parting with this judgement, I am constrained to make some observations. The State of Gujarat is an impersonal machinery and it is not at fault for this delayed payment of the amount of arrears to this retired officer. Its fault is only that it has no control over its officers who are negligent, careless, reckless and wholly unmindful of the duties towards public. If any financial burden is to be suffered by the State Government because of negligence, carelessness and recklessness and unmindfulness of their duties towards public of its officers, they are responsibel to make good of this loss. Because of this negligence, carelessness and recklessness of the officers of the State this people's money is unnecessarily squandered and the public exchequer is heavily burdened. Unless the State Government takes stern action against the erring and defaulting officers, its house will not be corrected. In case for the negligence, carelessness and recklessness of the officers of the State Government the public exchequer is to be burdened, it is a fit case where those officers are made accountable for this loss and the said amount is recovered from their salaries.

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